

House Bill 1079 (AS PASSED HOUSE AND SENATE)

By: Representatives Dickson of the 6th, Coleman of the 97th, Maxwell of the 17th, and Austin of the 10th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 20-2-200 of the Official Code of Georgia Annotated, relating to
2 teacher certification, so as to authorize additional methods to pay certification fees to the
3 Professional Standards Commission; to amend Chapter 2 of Title 20 of the Official Code of
4 Georgia Annotated, relating to elementary and secondary education, so as to provide for
5 clearance certificates issued by the Professional Standards Commission relating to fingerprint
6 and criminal background checks; to provide for definitions; to provide for criminal
7 background checks for noneducators; to provide for procedures; to provide for fees for
8 clearance certificates; to provide that certain provisions relating to fingerprint and criminal
9 background checks may not be waived; to revise a definition relative to the "Georgia
10 Professional Standards Act"; to provide for related matters; to repeal conflicting laws; and
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Code Section 20-2-200 of the Official Code of Georgia Annotated, relating to teacher
15 certification, is amended by revising paragraph (2) of subsection (e) as follows:

16 "(2) The fees provided for in paragraph (1) of this subsection shall be paid by an
17 applicant by cashier's check, ~~or~~ money order, credit card, debit card, or other method as
18 approved by the Professional Standards Commission as a condition for filing the
19 application."

20 **SECTION 1A.**

21 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
22 secondary education, is amended by revising subsection (e) of Code Section 20-2-211,
23 relating to annual contracts for certificated personnel in elementary and secondary education,
24 as follows:

"(e)(1) All personnel employed by a local unit of administration after July 1, 2000, whether or not such personnel hold certificates from the Professional Standards Commission, shall be fingerprinted and have a criminal record check made as required by this subsection. The local unit of administration shall have the authority to employ a person holding such a certificate under a provisional or temporary contract for a maximum of 200 days and to employ a person who does not hold such a certificate for a maximum of 200 days, in order to allow for the receipt of the results of the criminal record check. Teachers, principals, and other certificated personnel whose employment in a local unit of administration is renewed pursuant to this subpart after July 1, 2000, shall have a criminal record check made as required by this subsection upon any certificate renewal application to the Professional Standards Commission. The local unit of administration shall adopt policies to provide for the subsequent criminal record checks of noncertificated personnel continued in employment in the local unit of administration.

(2) Fingerprints shall be in such form and of such quality as shall be acceptable for submission to the National Crime Information Center under standards adopted by the Federal Bureau of Investigation or the United States Department of Justice. It shall be the duty of each law enforcement agency in this state to fingerprint those persons required to be fingerprinted by this subsection.

(3) At the discretion of local units of administration, fees required for a criminal record check by the Georgia Crime Information Center, the National Crime Information Center, the Federal Bureau of Investigation, or the United States Department of Justice shall be paid by the local unit of administration or by the individual seeking employment or making application to the Professional Standards Commission.

(4) It shall be the duty of the State Board of Education to submit this subsection to the Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation and the United States Department of Justice for their consent to conduct criminal record checks through the National Crime Information Center as required by federal law, rules, or regulations. No criminal record checks through the National Crime Information Center shall be required by this subsection unless and until such consent is given.

(5) Information provided by the Georgia Crime Information Center or the National Crime Information Center shall be used only for the purposes allowed by Code Section 35-3-35 or by applicable federal laws, rules, or regulations.

(6) The State Board of Education is authorized to adopt rules and regulations necessary to carry out the provisions of this subsection.

(7) This subsection shall be repealed on January 1, 2011."

SECTION 1B.

Said chapter is further amended by adding a new Code section to read as follows:

"20-2-211.1.

(a) As used in this Code section, the term:

(1) 'Clearance certificate' means a certificate issued by the Professional Standards Commission that verifies that an educator has completed fingerprint and criminal background check requirements as specified in this Code section and that the individual does not have a certificate that is currently revoked or suspended in Georgia or any other state; provided, however, that additional fingerprinting shall not be required for renewal of a clearance certificate or for educators who possess a professional educator certificate as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for five years. Clearance certificates shall be subject to fees in accordance with subsection (e) of Code Section 20-2-200.

(2) 'Educator' means a teacher, school or school system administrator, or other education personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter, be required to hold a professional educator certificate, license, or permit issued by the Professional Standards Commission and persons who have applied for but have not yet received such a certificate, license, or permit.

(3) 'Local unit of administration' shall have the same meaning as in Code Section 20-2-242 and shall also include state chartered special schools and commission charter schools.

(4) 'Professional educator certificate' means a certificate, license, or permit issued by the Professional Standards Commission that is based upon academic, technical, and professional training, experience, and competency of such personnel as provided for under Code Section 20-2-200.

(b)(1) On and after January 1, 2011, all educators employed by a local unit of administration shall hold a valid clearance certificate; provided, however, that an educator who possesses a professional educator certificate as of January 1, 2011, shall not be required to obtain a clearance certificate until his or her professional educator certificate is up for renewal. A local unit of administration may employ an educator who does not already hold a valid clearance certificate, provided the individual has applied for a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check and issuance of the clearance certificate. The requirements of this Code section shall be in addition to professional educator certificate requirements unless such educator is employed by a school which is exempt from teacher

certification requirements pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter.

(2) Any other Code sections to the contrary notwithstanding, educators holding a valid clearance certificate shall be subject to the code of ethics for educators as established pursuant to Code Section 20-2-984.1 and shall be subject to Code Sections 20-2-984, 20-2-984.2, 20-2-984.3, 20-2-984.4, and 20-2-984.5.

(c) A local unit of administration shall ensure that all noneducator personnel employed by such local unit of administration after January 1, 2011, shall be fingerprinted and have a criminal record check performed. The local unit of administration shall have the authority to employ such person for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check. The local unit of administration shall adopt policies to provide for the subsequent criminal record checks of noneducator personnel continued in employment in the local unit of administration.

(d) Fingerprints shall be in such form and of such quality as shall be acceptable for submission to the National Crime Information Center under standards adopted by the Federal Bureau of Investigation or the United States Department of Justice. It shall be the duty of each law enforcement agency in this state to fingerprint those persons required to be fingerprinted by this Code section.

(e) At the discretion of local units of administration, fees required for a criminal record check by the Georgia Crime Information Center, the National Crime Information Center, the Federal Bureau of Investigation, or the United States Department of Justice shall be paid by the local unit of administration or by the individual seeking employment or making application to the Professional Standards Commission.

(f) It shall be the duty of the State Board of Education to submit this Code section to the Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation and the United States Department of Justice for their consent to conduct criminal record checks through the National Crime Information Center as required by federal law, rules, or regulations. No criminal record checks through the National Crime Information Center shall be required by this Code section unless and until such consent is given.

(g) Information provided by the Georgia Crime Information Center or the National Crime Information Center shall be used only for the purposes allowed by Code Section 35-3-35 or by applicable federal laws, rules, or regulations.

(h) The State Board of Education is authorized to adopt rules and regulations necessary to carry out the provisions of this Code section."

SECTION 1C.

Said chapter is further amended by revising subsection (e) of Code Section 20-2-82, relating to contract terms for local school systems requesting flexibility, as follows:

"(e) The state board shall be authorized to approve a waiver or variance request of specifically identified state rules, regulations, policies, and procedures or provisions of this chapter upon the inclusion of such request in the local school system's proposed contract and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver and variance shall be improvement of student performance. The state board shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; ~~or any reporting requirements pursuant to Code Section 20-2-320 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1.~~ A local school system that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request."

SECTION 1D.

Said chapter is further amended by revising paragraph (1) of subsection (e) of Code Section 20-2-200, relating to regulation of certificated professional personnel by the Professional Standards Commission, as follows:

"(e)(1) The Professional Standards Commission shall charge the following fees to persons who file applications with the commission under its regulations adopted pursuant to the authority of this Code section:

- (A) For an applicant for initial certification who is not currently employed in Georgia public or private schools. \$ 20.00
- (B) For an applicant for initial certification who is not a graduate of an accredited education program from a Georgia college or university. 20.00
- (C) For an applicant for a higher certificate when the applicant then holds a Georgia certificate but who is not currently employed in Georgia public or private schools. 20.00
- (D) For an applicant for a certificate which adds a field or which endorses a certificate but who is not currently employed in Georgia public or private schools. 20.00

166	(E) For an applicant for a conditional certificate.	20.00
167	(F) For an applicant for the renewal of any certificate if the applicant is not	
168	currently employed by a public or private school in Georgia.	20.00
169	(G) For evaluating transcripts where certificates are not issued and for	
170	issuing duplicate copies of certificates.	20.00
171	<u>(H) For an applicant for a clearance certificate pursuant to Code Section</u>	
172	<u>20-2-211.1 who is not currently employed in Georgia public or private</u>	
173	<u>schools or who is not a graduate of an accredited education program from a</u>	
174	<u>Georgia college or university.</u>	<u>20.00"</u>

175 **SECTION 1E.**

176 Said chapter is further amended by revising subsection (b) of Code Section 20-2-244, relating
177 to waivers to improve student performance, as follows:

178 "(b) The State Board of Education is not authorized to waive any federal, state, and local
179 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
180 of the physical health and safety of school students, employees, and visitors; conflicting
181 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
182 conduct in or near a public school; ~~or~~ any reporting requirements pursuant to Code Section
183 20-2-320 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1. A
184 school or school system that has received a waiver shall remain subject to the provisions
185 of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge
186 tuition or fees to its students except as may be authorized for local boards by Code Section
187 20-2-133, and shall remain open to enrollment in the same manner as before the waiver
188 request."

189 **SECTION 1F.**

190 Said chapter is further amended by revising paragraph (2) of Code Section 20-2-982.1,
191 relating to definitions relative to the "Georgia Professional Standards Act," as follows:

192 "(2) 'Educator' means teachers and school or school system administrators and other
193 education personnel of this state who hold certificates, permits, or other certification
194 documents, including clearance certificates, issued by the Professional Standards
195 Commission and persons who have applied for but have not yet received or have been
196 denied such certificates, permits, or other certification documents from the Professional
197 Standards Commission."

SECTION 1G.

Said chapter is further amended by revising subsection (b) of Code Section 20-2-2065, relating to waiver of provisions of Title 20 for charter schools, as follows:

"(b) In determining whether to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school, or for charter systems, each school within the system, shall be:

(1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity and that nothing in this Code section shall preclude the use of computer and Internet based instruction for students in a virtual or remote setting;

(2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to any charter petitioner that is a local school, local school system, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133; ~~and~~

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection; and

(12) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and criminal background checks."

235

SECTION 2.

236 All laws and parts of laws in conflict with this Act are repealed.